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- B<sup>3</sup>*  
*word.*
- (i) contacting said material or object with a blood sample from a human or animal and
  - (ii) [determining] detecting and/or measuring the [blood-reaction] blood reaction by a biological, physical, chemical, or physicochemical method, the improvement wherein the blood sample is a thawed cryopreserved unit in accordance with claim 24. --
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#### **REMARKS**

The claims presented are 19-25 and 27-29. By the instant amendment the claims are revised to more clearly define the instant invention as further explained, below.

Applicants wish to thank the Examiner for expressly indicating in the Office Action those rejections made in the previous Office Action that are, now, withdrawn.

Applicants are deferring submission of formal drawings, in accordance with the draftperson's notice, pending notification of allowable subject matter.

Claim 26 is cancelled, hereby, which resolves the objection to claim 26 made in the instant Office Action.

Claims 22 and 23 stand objected to under 37 C.F.R. 1.75(c) as being improper dependent claims for, allegedly, failing to further limit the subject matter of the previous claim. According to the Office Action, claims 22 and 23 are considered objectionable because "no further limitation of the anticoagulants of claim 19 can be

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determined" (Office Action page 4). Claims 22 and 23 do not depend from claim 19; claims 22 and 23 depend from claim 21, which is an independent claim. Accordingly, the objection provides no explanation as to how claims 22 and 23 fail to satisfy the requirements of 37 C.F.R. 1.75(c), making the objection improper. Withdrawal of the objection to claims 22 and 23 is, therefore, requested.

Claims were rejected under 35 U.S.C. 112, second paragraph, for allegedly containing indefinite claim language. Reconsideration is respectfully requested in view of the changes to the claims effected by the instant Amendment taken together with the following explanation.

With respect to claim 20, the term "immune-related data" has been cancelled, which resolves this alleged instance of indefinite claim language.

With respect to the term "the group" as recited in claim 21, first of all, the term is not a "limitation" as alleged in the statement of rejection. Secondly, in the instant situation the term appears within the phrase "selected from the group consisting of," which is not only accepted, but required, by the USPTO for use in introducing a Markush limitation. The Examiner's attention is respectfully directed to the MPEP, for example, MPEP 803.02. Withdrawal of the rejection under § 112, second paragraph, with respect to "the group" is requested.

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According to the statement of rejection, the claims are allegedly incomplete because there is no correlation step relating immunofunctional, toxic, or modulatory reactions to the test materials. Applicants have amended the instant claims to address this issue, for example, by rewriting claim 19 to read "detecting and/or measuring the immunofunctional, toxic, and/or modulatory reaction of the sample of whole blood to said material or object." Therefore, the relationship allegedly lacking, in accordance with the statement of rejection, is established in the claims, as presently amended.

Applicants respectfully request reconsideration of the rejections under 35 USC 102 and 35 USC 103.

All of the rejections under §102 and §103 rely on the teachings of Sobota, alone or combined with additional references. On its face, Sobota has an effective date no earlier than April 11, 1997, the date that appears on *Journal of Immunological Methods* 293 (in which the Sobota reference appears).

The §119 priority date of the instant application is December 23, 1996, i.e., the filing date of the German priority application (DE 196 54 266.9). Applicants submit, herewith, a verified English-language translation of the German priority document. Accordingly, the priority claim under §119 is perfected.

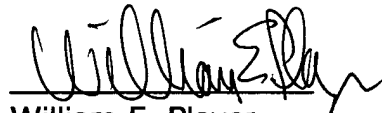
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The instant application has a priority date (December 23, 1996), which antedates the effective date of Sobota on its face, i.e., April 11, 1997. Therefore, Sobota is not available as prior art against the instant application. Since all of the rejections under §102 and §103 rely on Sobota, none of the rejections can be sustained in view of the fact that Sobota can not be used as prior art against the claims of the instant application. Withdrawal of the rejection is, therefore, requested.

Favorable action commensurate with the foregoing is requested.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "William E. Player", written over a horizontal line.

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